



**THE ATTORNEY GENERAL  
OF TEXAS**

Gerald C. Mann

~~XXXXXXXXXXXXXXXXXXXX~~  
ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable Norton Fox  
Acting County Attorney  
Limestone County  
Groesbeck, Texas

Dear Sir:

Opinion Number 0-5658

Re: Under the facts submitted, can  
a County Commissioner of  
Limestone County legally spend  
any of the money derived from  
the sale of certain road bonds,  
in excess of the budget?

We are in receipt of your letter of October 22nd, in answer  
to our request for further information, for which we wish to thank you.

Your request for an opinion is stated as follows:

"I wish that you would please give me an opinion  
in regard to the following question:

"About twenty years ago the Consolidated Road  
District No. 4 in Limestone County, issued road bonds.  
Out of the proceeds of the sale of said bonds there was  
certain money left which supposedly has been used in the  
maintenance of such bonded roads in Limestone County,  
and its commissioner's precincts are operating under a  
budget properly adopted, and approved, but no separate  
budget has been made to govern the specific spending of  
the said fund, of said road district.

"Can the County Commissioner of the precinct  
in which said road district is situated spend any of said  
money in excess of the budget?"

Replying to the above, you are advised that no separate bud-  
get is required governing the expenditure of the proceeds of a road bond  
issue. The law provides that the same shall be expended for the purpose  
for which the bonds were authorized.

Article 752p reads as follows:

"The purchase money for such county bonds shall be paid out by the county treasurer upon warrants drawn on the available road fund, issued by the county clerk, countersigned by the county judge, upon certified accounts approved by the Commissioners' Court of the county; and the purchase money for such bonds issued on the faith and credit of a political subdivision or road district shall be paid out by the county treasurer upon warrants drawn on the available road fund thereof, issued by the county clerk, countersigned by the county judge, and approved by the Commissioners' Court. Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, sec. 18."

Article 752u reads as follows:

"The County Commissioner in whose Commissioners' precinct such political subdivision or road district is located, shall be ex officio road superintendent of said subdivision or district with power to contract in behalf of such subdivision or district in an amount not to exceed fifty dollars, which shall be approved by the Commissioners' Court. All contracts exceeding the sum of fifty dollars shall be awarded by the entire court. Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, sec. 23."

Article 2352, Revised Statutes, 1925, is as follows:

"The several commissioners, together with the county judge, shall compose the Commissioners' Court." Constitution, Article 5, Sec. 18.

The Commissioners' Court is a unit and is an agency of the whole county, and its members are primarily representatives of the whole county, not merely representatives of their respective precincts. Stovall vs. Shivers, 103 S.W. 363.

You are advised that no separate budget is required for the proceeds of a bond issue of a road district, and the surplus funds may be expended in the maintenance of the roads in the road district (unless the bonds were issued to construct particular roads in the district, in which event the money can be expended only on such specified roads) provided such surplus funds are expended by order of and under direction of the Commissioners' Court, and not by one commissioner only, with the exception that the commissioner in whose precinct the road district is situated may contract in behalf of the district in an amount not to exceed

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fifty dollars, which shall be approved by the Commissioners' Court.

We trust that the foregoing satisfactorily answers your question.

Approved Oct 28, 1943

Very truly yours

/s/ Grover Sellers  
First Assistant  
Attorney General

ATTORNEY GENERAL OF TEXAS

By /s/ C. F. Gibson

C. F. Gibson  
Assistant

CFG-s:cm

Approved  
Opinion  
Committee

By /s/ BWB  
Chairman